IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 15683 of 2007(P)

PETITIONER:

BAIJU.K.V., PRAKASINI,
KARIAVATTOM P.O., TRIVANDRUM-695 581.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PRINCIPAL SECRETARY, HIGHER EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.

3. UNIVERSITY OF KERALA, REPRESENTED
BY REGISTRAR, THIRUVANANTHAPURAM.

4. MAHATHMA GANDHI UNIVERSITY,
REPRESENTED BY REGISTRAR, KOTTAYAM.

5. COCHIN UNIVERSITY OF SCIENCE &
TECHNOLOGY, REPRESENTED BY REGISTRAR, COCHIN.

6. CALICUT UNIVERSITY,
REPRESENTED BY REGISTRAR, CALICUT.

7. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY SECRETARY, THIRUVANANTHAPURAM.

BY ADV. SRI.A.A.ABUL HASSAN, SC, COCHIN UNIVERSITY
SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
GOVT.PLEADER SRI.T.T.MUHAMOOD.
SRI.T.A.SHAJI - SC FOR M.G. UNIVERSITY.
SRI.P.C.SASIDHARAN - SC FOR KPSC & CALICUT UTY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

EXT.P1: TRUE COPY OF DISABILITY CERTIFICATE.

EXT.P2: TRUE COPY OF M.Sc CEERTIFICATE OF PETR.

EXT.P3: DO. IN M.Phil.

EXT.P4: DO. OF UGC/NET.

EXT.P5: TRUE COPY OF ORDER DT. 6.8.2005.

EXT.P6: TRUE COPY OF LETTER BY R1.

EXT.P7: TRUE COPY OF NOTIFICATION DT. 30/4/2007.

EXT.P8: TRUE COPY OF REPRESENTATION DT. 4/5/2007.

RESPONDENTS' EXHIBITS:

EXT.R2(A): TRUE COPY OF LETTER DT. 29/12/2006.

A.K. Basheer, J.

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W.P(C) No.15683 of 2007

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Dated this the 10th day of August, 2007.

J U D G M E N T

Petitioner claims that he is a physically handicapped person with 60% permanent disability as could be seen from Ext.P1 certificate issued by the Standing Disability Assessment Board attached to the General Hospital, Thiruvananthapuram. He is a Post Graduate with M.Phil in Statistics. He has also passed National Eligibility Test conducted by the University Grants Commission.

2. His primary grievance is that the respondents are not taking appropriate steps to implement the statutory mandate in Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. It is contended by the petitioners that 3% of vacancies has to be set apart for physically handicapped persons in the post of Lecturer in Statistics in the Universities in Kerala. Inviting my attention to Ext.P5 order issued by the Government in August 2005 and particularly to the list appended to the said order, it is submitted by the learned counsel that the Government had ordered that 3% vacancies in Class I and Class II posts in public service would be reserved for appointment from eligible physically handicapped persons as done by the Government of India in accordance with the provisions of the Act. Post of Lecturer in the Department of Collegiate Education had been included in the list appended to Ext. P5. It is the specific case of the petitioner that the Government had forwarded Ext.P5 order to the

Universities in the State and also the Director of Collegiate Education for immediate necessary action. Ext.P6 is stated to be the true copy of the communication issued by the Government in this regard in August 2005. Though the Universities have notified the vacancies to various faculties including Statistics, they have not earmarked 3% of the above vacancies to the physically handicapped category.

3. It may be noticed that in the statement filed on behalf of the Mahatma Gandhi University, it is stated that the issue relating to earmarking of 3% posts in the teaching Department for physically handicapped persons is under the active consideration of the University. Finalisation of modalities of the above process is at its last stage. However it is made clear in the statement that the University does not have any Department of Statistics under it.

4. Similarly in the counter affidavit filed by the Registrar of Kerala University it is averred that the Syndicate of the University has decided to adopt reservation for the physically handicapped persons as directed in Ext.P5 order of the Government. But the reservation could not be effected "for want of further direction regarding the turn or method to be adopted in such reservations". It is also averred that the University has addressed the Government seeking clarification and further directions to implement the 3% reservation for the physically handicapped candidates. In response to the above communication Government has informed the University that method of appointment to Class I and Class II categories has not been issued and action is being taken in the matter. Copy of the said communication received by the University has been produced as Ext.R3(a).

5. The Registrar of the Cochin University of Science and Technology

in his counter affidavit has also stated that the University would consider the adoption of 3% reservation as contemplated under the Act in respect of teaching posts after obtaining a clarification from the State Government/U.G.C. It is further averred that 3% reservation rule has already been implemented for appointment to non teaching posts in the University.

6. In view of the above facts and circumstances I do not deem it necessary to deal with the issue any further at this stage. Learned counsel submits that petitioner will be satisfied if an appropriate direction is issued to the Government to take appropriate expeditious action in the matter stipulating the norms/method of appointment under the 3% quota for the physically handicapped. He points out that petitioner has preferred Ext.P8 representation before respondent No.1 in this regard.

In the above facts and circumstances the writ petition is disposed of with a direction to respondent No.1 to consider and pass orders on Ext.P8 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within 2 months from the date of receipt of a copy of this judgment. Respondent no.1 shall ensure that appropriate further clarifications are issued to the Universities in the State for implementation of Ext.P5 order. This shall be done within the time frame stipulated above.

A.K. Basheer
Judge.

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